

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID ARTHUR BROWAND,

Petitioner,

v.

CALIFORNIA DEPARTMENT OF
CORRECTIONS AND
REHABILITATION,

Respondent.

No. 2:21-cv-00184-DAD-EFB (HC)

ORDER

Petitioner is a state prisoner proceeding without counsel in this petition for a writ of habeas corpus brought under 28 U.S.C. § 2254. ECF No. 18. His second amended petition was filed on January 5, 2021. ECF No. 23. He then filed a motion to stay the petition pending exhaustion of state court remedies which respondent did not oppose and which the court granted. ECF No. 27. The court directed petitioner to file a motion to lift the stay within 30 days of exhaustion, along with a request to file an amended petition containing only exhausted claims. Petitioner now seeks to lift the stay and file the (third) amended petition, having exhausted his claims in the California Supreme Court. ECF No. 30.


Petitioner's motion and its attachments show that the California Supreme Court denied his recent petition (presumably containing his exhausted claims, the petition itself is not attached) on

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1 August 31, 2022.¹ ECF No. 30. As the matter now appears ready to proceed, the stay entered by
2 the court on March 31, 2022 is hereby LIFTED, and petitioner is directed to file an amended
3 petition containing only exhausted claims within 30 days of the date of this order. Failure to do
4 so may result in a recommendation that this action be dismissed.

5 So ordered.

6 Dated: November 2, 2022.

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9 EDMUND F. BRENNAN
10 UNITED STATES MAGISTRATE JUDGE
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26 ¹ Petitioner failed to file the instant motion to lift the stay within 30 days of exhaustion (it was
27 filed on October 14, 2022). In deference to petitioner's incarcerated status, and because of the
28 minimal delay of two weeks, the court will overlook the untimeliness of petitioner's instant
motion.